

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
PUBLIC MEETING AGENDA

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

July 26, 2006
10:00 a.m.

ROLL CALL:

Candice A. Traeger, Chairwoman
Marcy V. Saunders, Board Member
Robert Pacheco, Board Member

MINUTES OF JULY 12, 2006

ADMINISTRATIVE MATTERS

(Information regarding the general administration of cases pending before the Appeals Board.)

1. CALENDARING/CASELOAD

NEW BUSINESS

(The Appeals Board hears and discusses new reports presented by staff.)

OLD BUSINESS

(The Appeals Board hears and/or discusses matters on a follow-up basis.)

1. 2006 LEGISLATION
(Review and discuss legislation introduced that impacts the Appeals Board.)
2. 2006/07 BUDGET
(Review and discuss budget issues for this fiscal year.)

CHAIRWOMAN'S REPORT

(Hear report from the Chair on issues affecting the Appeals Board.)

BOARD MEMBERS' REPORTS

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(Hear reports from Board Members on issues affecting the Appeals Board.)

EXECUTIVE OFFICER'S REPORT

(Report regarding administrative matters and news from the Department and Appeals Board.)

STAFF REPORTS

(Reports from the Presiding ALJs and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

Any matter not completed at this meeting may be continued to subsequent meetings.

PUBLIC COMMENT

(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)

The Appeals Board invites comments from the public regarding ways to calendar appeals.

APPEALS

(Report of statistics regarding appeals docketed by the Appeals Board for the current month, previous months, and previous four years.)

Intents to Appeal in June 2006	_____
Total Intents to Appeal to Date	_____
Appeals Docketed in June 2006	_____
Total Appeals Docketed to Date	_____
Appeals Packets Completed in June 2006	_____
Total Appeals Packets Completed to Date	_____

	2001	2002	2003	2004	2005	2006
January	387	586	482	357	422	405
February	302	420	405	421	435	320
March	421	320	470	513	400	506
April	372	559	526	416	406	259
May	612	589	359	325	187	592
June	421	384	446	486	517	508
July	410	511	367	320	372	
August	549	426	345	386	345	

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September	350	374	448	269	380	
October	482	438	435	425	346	
November	507	368	331	332	326	
December	447	389	621	509	442	
TOTAL	5255	5367	5235	4762	4651	

Recess to Closed Session to discuss matters pursuant to Government Code § 11126 (a), (c) (3), and (e) and Labor Code sections 6609 and 6620.

The next Public Meeting/Closed Session is scheduled
Wednesday, August 9, 2006
Cal/ OSHA Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

NOTICE TO PARTIES: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district Office or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**For Further Information
Contact**

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Sacramento, CA 95833
(916) 274-5751

oshappeals@dir.ca.gov

<http://www.dir.ca.gov/oshappeals/>

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
For

Wednesday, July 26, 2006

10:00 a.m.

Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: July 14, 2006

RE: Closed Session of the Board on July 26, 2006

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

NONE.

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

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1. AFG INDUSTRIES INC. dba AFG GLASS, 06-R3D3-1606
2. ASTA CONSTRUCTION CO., INC., 06-R2D1-785 AND 786
3. AMERICANA LODGE, 06-R2D3-1038 THROUGH 1040
4. AMERICA WEST US AIRWAYS, 06-R3D5-1093
5. DON ANDERSON dba ANDERSON LIGHTING & ELECTRIC, 05-R3D5-3867 AND 3868
6. BIG VALLEY LABOR SERVICES, 05-R2D5-1172
7. JIM BIRKS dba J B RENTALS, 05-R2D3-3287 AND 3288
8. BROUILLETTE CONSTRUCTION INC., dba BCI, 06-R2D3-1267
9. CBC FRAMING, INC., 06-R2D4-1188 THROUGH 1190
10. CMS REAL ESTATE, 05-R4D1-3164 AND 3165
11. CALIFORNIA CARTAGE COMPANY, INC., 06-R3D5-574
12. CALIFORNIA SEWAGE DISPOSAL CO., 05-R2D5-4256
13. CALISTOGA RANCH, 04-R1D5-2871
14. CALLANAN DEVELOPMENT AND CONSTRUCTION, 05-R3D5-3755 THROUGH 3756
15. CERTIFIED TIRE SERVICE CENTERS, 06-R3D1-143
16. CHARLES CRABTREE PAINTING, 06-R2D3-211
17. CON J. FRANKE ELECTRIC INC, 04-R5D1-1581 AND 1582
18. COOL AIR SUPPLY, 05-R4D3-2352
19. COTTAGE BAKERY, INC., 06-R2D4-1187
20. CREATIVE PERSPECTIVES PLUS, 05-R4D3-841 THROUGH 844
21. CREATIVE TOUCH INTERIORS, INC., 05-R2D1-3921
22. CYRUS COMPANY, 05-R4D1-3174 THROUGH 3176

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23. DAVIDON HOMES, 05-R2D3-3110 AND 3111
24. DAVIS BROTHERS FRAMING CO., INC., 05-R3D3-1513 AND 1514
25. EAGLE GLOBAL LOGISTICS, 06-R2D1-208
26. E.F. OXNARD, LLC aka E.F. OXNARD, INC., 06-R3D7-1161 THOROUGH 1162
27. ENVIRONMENTAL TREE AND DESIGN, INC., 05-R2D3-3283 THROUGH 3286
28. EXEL, 06-R2D4-1058
29. FORSYTH STEEL CO., INC., 05-R3D5-3504
30. G S ROJAS CONSTRUCTION, CO., 05-R2D5-4547 AND 4548
31. GARCIA FARMS PRODUCE, 06-R2D4-1055 AND 1056
32. ROBERT R. GARCIA, 06-R2D4-471 THROUGH 473
33. GATEWAY CONSTRUCTION CO., INC., 05-R4D3-3023 AND 3024
34. GHILOTTI BROTHERS CONSTRUCTION, 05-R1D5-1283
35. GRANITE CONSTRUCTION COMPANY, INC., 04-R5D1-2449
36. GREGG BENSON FARMS, 06-R2D4-1051 AND 1052
37. GULF ENGINEERING & CONSTRUCTION, 05-R3D2-2105 AND 2106
38. HOWARD APPLIANCES, 05-R4D4-3034 AND 3035
39. HUDD DISTRIBUTION, 06-R4D4-1674
40. INTERNATIONAL PAPER COMPANY, 04-R3D5-3523
41. J W REYNOLDS CONSTRUCTION INC., 04-R4D1-4690 THROUGH 4695
42. JOHNSON CONTROLS, 04-R3D1-196 AND 197
43. KODIAK ROOFING, 05-R2D1-3422 AND 06-R2D1-1383
44. KRISTIN CONSTRUCTION, 05-R2D3-4371 THROUGH 4377

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45. LA LIGHTING, 05-R4D4-1639
46. LA TORTILLA FACTORY, 05-R1D5-4359 AND 4360
47. LONG BEACH CITY OF, ANIMAL CONTROL, 05-R3D5-3157
48. LOS ANGELES UNIFIED SCHOOL DISTRICT – BETHUNE MIDDLE SCHOOL, 05-R4D2-2709
49. METCO MANUFACTURING, INC., dba METCO FOURSLIDE, 05-R6D2-3403 THROUGH 3409
50. MIKE ROVNER CONSTRUCTION, INC., 06-R4D3-1645 AND 1646
51. NATIONAL CARWASHES, INC., 05-R4D1-2994 THROUGH 2998
52. NATIONAL GYPSUM CO., 05-R3D5-3149
53. NATIONAL PLANT SERVICES, 06-R4D3-1643
54. NORTHERN CALIFORNIA LOG HOMES ROCKY MOUNTAIN LOG HOMES, 05-R2D3-3929 THROUGH 3931
55. OPUS ONE WINERY, 06-R1D5-438
56. PACIFIC CONST. ENTERPRISES INC., 05-R4D1-3171 THROUGH 3173
57. PALO ALTO VINEYARD MANAGEMENT, INC., 06-R1D5-0202
58. PARAMOUNT PICTURES, 06-R4D1-0111 AND 0112
59. PASADENA UNIFIED SCHOOL DISTRICT PASADENA HIGH SCHOOL, 05-R4D2-736 THROUGH 738
60. PETALUMA POULTRY, 06-R1D5-1989 AND 1990
61. PLYCO FOUNDATION VENTS, INC., 05-R2D4-4533 AND 4534
62. PRECISION METAL PRODUCTS, 06-R3D2-048 THROUGH 050
63. RAY TONEY AND ASSOCIATES, 06-R2D3-1268 AND 1269
64. ROYAL CONSTRUCTION CORP., 05-R4D4-244 THORUGH 249

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65. S & M PALLET, 04-R4D2-2774 THROUGH 2777
66. SW ADMINISTRATORS INC., 05-R4D4-1637 AND 1638
67. SAFELITE AUTO GLASS, 05-R4D3-3025
68. 7 UP BOTTLING CO. OF MODESTO, 06-R2D4-213 AND 214
69. SHERATON SERVICES, INC., 06-R2D3-1185 AND 1186
70. SILVIO'S PHOTOWORKS, 06-R3D5-0132
71. SOLID ROCK CONSTRUCTION, INC., 05-R2D3-3117 AND 3118
72. SOUTHERN CALIFORNIA EDISON COMPANY, 04-R5D1-1034
73. SPATES EXCAVATION AND EQUIPMENT RENTAL, INC., 06-R3D5-0066 THROUGH 0067
74. STATER BROTHERS, 05-R4D4-3036 THROUGH 3038
75. SUMMERFIELD HOMES INC., 05-R4D1-2999 THORUGH 3003
76. SUNUP LAND & CATTLE CO., 06-R2D4-1057
77. SWEET LEAF GREENHOUSE, INC., 05-R3D3-2114 THROUGH 2116
78. THERM-ALL INSULATION, INC., 05-R2D1-078 AND 079
79. TORRANCE, CITY OF, POLICE DEPARTMENT, 05-R3D5-3624
80. UNITED STEEL & METALS, 04-R4D4-4245
81. VINA INVESTMENT & CONSTRUCTION COMPANY/c/o THUC HUY PHAN, 05-R3D5-3503
82. WESTCOR CONSTRUCTION OF CALIFORNIA, 05-R3D3-1458 AND 1459
83. WESTERN WATER CONSTRUCTORS, 05-R2D3-3280
84. WHITSELL, MFG., INC. 06-R2D3-890 THROUGH 893

ORDERS DISMISSING APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

NONE.

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. SATNAM SINGH, 03-R2D3-3481

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

2. SATNAM SINGH, 03-R2D3-3481

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. AC FRAMERS INC., 03-R2D3-3475
2. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
4. BLUE DIAMOND MATERIALS, 02-R5D2-1268
5. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
6. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
7. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
8. CITY OF COMMERCE, 03-R4D2-2628
9. CITY OF LOS ANGELES FIRE DEPARTMENT, 03-R2D5-3960
10. COX COMMUNICATIONS, 03-R3D2-1942
11. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114

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12. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
13. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
14. GLASS PAK, 03-R2D2-0750 AND 0751
15. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
16. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
17. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
18. HUSSMAN CORPORATION, 03-R3D1-2939
19. ILH CONSTRUCTION, 02-R1D1-4171 & 4172
20. IMPERIAL HIGHWAY CHEVRON, 03-R4D2-2778 THROUGH 2780
21. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
22. K. A. BINE CONSTRUCTION, 03-R1D5-2031
23. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
24. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
25. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
26. LONG BEACH CITY COLLEGE, 03-R3D5-2747
27. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
28. LOWPENSKY MOULDING, 03-R1D1-3405
29. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
30. McDONALDS #10660, 03-R1D3-4116 & 4117
31. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
32. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
33. PMR RACE CARS, 03-R3D3-1824 & 1825

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34. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
35. RII PLASTERING INC., 02-R3D1-2679
36. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
37. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
38. STILES PAINT MANUFACTURING, 02-R1D4-1630
39. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
40. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
41. TRIO METAL, 03-R4D4-0316 & 0317
42. UNITED AIRLINES, 00-R1D5-2844
43. WAREHOUSE DEMO SERVICES, 03-R1D4-3427
44. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. SUNRISE WINDOW CLEANERS, INC., 03CS00300 (00-3220/21)
3. TEICHERT AGGRETATES, 03CS00659 (01-1193)
4. HARBOR SAND & GRAVEL, INC., 03CS00974 (01-1016)
5. LUIS E AVILA (E & L AVILA LABOR), ECU01582 (00-4067)
6. MOUNTAIN CASCADE, 03CS01655 (01-3561)
7. RUDOLPH & SLETTEN, 04CS00540 (01-478)

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8. PACIFIC RESOURCE RECOVERY, 04CS00695 (00-1108)
9. MATAROZZI-PELSINGER BUILDERS, 04CS01204 (01-1400)
10. BLF FRAMING, INC., 04CS01618 (02-1837/38)
11. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

APPELLATE COURT

1. C. OVERAA & CO., CO51245 (04CS00570) 01-3560
2. THE HERRICK CORP., CO51506 (01CS00438) 97-1373

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.